

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**MICHAEL A. SPENCER,**  
**Petitioner,**

**v.**

**CIVIL ACTION NO. 3:05CV5  
CRIMINAL ACTION NO. 3:01CR25-2  
(BROADWATER)**

**UNITED STATES OF AMERICA,**  
**Respondent.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled case came before the Court for consideration of the Amended Report and Recommendation of Magistrate Judge James E. Seibert (Doc. No. 556), dated April 25, 2006, and petitioner's corresponding objections (Doc. No. 573), filed July 17, 2006. Pursuant to 28 U.S.C. § 636(b)(1), this Court conducted a de novo review of the above. As a result, the Court is of the opinion that the Amended Magistrate Judge's Report and Recommendation (**Doc. No. 556**) should be, and is hereby, **ORDERED** adopted.

The Court further **ORDERS** that petitioner's § 2255 motion (**Doc. No. 483**) be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. Accordingly, this action shall be **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 20<sup>th</sup> day of October, 2006.

  
**W. CRAIG BROADWATER**  
**UNITED STATES DISTRICT JUDGE**

